

**Proposed Agency Request Legislation – 2004 Session**

**BRIEFING PAPER**

Prepared for the  
October 2003 TRANSPORTATION COMMISSION MEETING

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Approved by: Paula Hammond, Chief of Staff

**PURPOSE:**

To obtain the Transportation Commission's approval of the Department's Agency Request recommendations for the 2004 Session.

**ACTION/OUTCOME:**

That the Transportation Commission review and approve the Department's Agency Request recommendations for the 2004 Legislative Session.

**BACKGROUND:**

State law requires that the Commission review and approve all Departmental requests for legislation. In addition, the Governor's Office has a review process for the development and introduction of agency request legislation.

**DISCUSSION:**

Prior to each legislative session, Department staff makes suggestions for essential or highly desirable changes in law that would contribute to better operation of the Department. The Commission received an informational briefing on those recommendations during their September meeting. The Commission also directed the Department to develop two pieces of legislation concerning studded tires for their consideration in October. The attached list reflects those legislative issues we are recommending for your consideration.

**RECOMMENDATION AND MOTION:**

We recommend that the Transportation Commission move to approve the Department's Agency Request Legislation for the 2004 Session.

For further information, please call Don Griffith at (360) 705-7022.

**PROPOSED LEGISLATIVE RECOMMENDATIONS  
2004 SESSION**

**Washington State Department of Transportation**

**October 2003**

## **1. Electronic toll collection – Tacoma Narrows Bridge**

Toll collection for the new Tacoma Narrows Bridge will require legislation to define collection methods for electronic toll collection (ETC), the preferred toll payment method and to address the enforcement of toll non-payment. This legislation needs to be in place before the bridge is open to traffic, which is scheduled to occur in 2007. While the language is intended to apply to the Tacoma Narrows Bridge Project, the definitions of toll collection systems and photo monitoring systems is broad enough to apply to other tolling projects that might be authorized by the legislature in the future. This is true of the enforcement proposal as well.

Minor changes to the existing Dept. of Licensing (DOL) vehicle registration legislation are needed to allow the department or its designated representative to request registration information from the DOL to identify toll violators. Minor changes are also needed to the Public-Private Transportation Initiatives legislation (RCW 47.46) to define electronic toll collection methods.

## **2. Enforcement of toll collection violations**

In concert with the toll collection process, legislation is also needed to support enforcement of toll non-payment.

In many other states, toll collection facilities have specific legislation to support toll violation enforcement so that as ETC payments become the major source of revenue, chronic violators can be pursued and deterred using more stringent measures. These often include traffic infraction citations which if not paid can escalate to vehicle registration holds until the outstanding citations are paid. Enforcement legislation generally provides greater assurance to bondholders and other investors that toll payments will be collected from all users and that toll violators will be aggressively pursued so that non-payments may be reduced to the lowest possible level. The proposed legislation would be non-specific to the Tacoma Narrows Bridge project so that other toll facilities in the state could use the provisions to enforce violations, particularly in ETC only lanes (or HOT lanes).

## **3. Recovering costs associated with damages to public facilities**

We are recommending legislation that would clarify the extent of recovery to the amount we seek from negligent damages sustained to our transportation facilities.

RCW 46.44.110 allows WSDOT to recover costs associated for the negligent damages to it's highway facilities, stating "Any person operating any vehicle is liable for any damage to any public highway, bridge, or elevated structure sustained as the result of any negligent operation thereof." Although an informal opinion of the DOT Attorney General's Office supports including traffic control as an element of damage under this statute, many insurance companies refuse to pay for these charges. This results in approximately \$40,000 per year of traffic control costs being unrecoverable.

As part of the review process we were requested to look at the underlying language to see if it should be broadened more because as currently worded it might limit what we seek to recover. We believe that broadening the language would simplify our recovery efforts. WSDOT proposes amending 46.44.110 with the sentence, “For purposes of this section, damage includes all expenses incidental to repairing the damage to the structure and/or cleaning of the accident site including, but not limited to, engineering costs, contract costs, traffic control activities and equipment rental.”

#### **4. Toll free operation of Puget Island Ferry during bridge closures**

We are recommending legislation to allow Wahkiakum County to provide toll free ferry service during bridge closures.

Existing law allows for toll free service of the Puget Island Ferry when SR 4 is closed. WSDOT is proposing that this language be expanded to allow for toll free operation when the Longview Rainier Bridge or the Astoria Meglar Bridge is closed due to emergency conditions and there are no other reasonably short suitable routes.

#### **5. Studded Tires**

The Transportation Commission directed the Department to develop two pieces of legislation concerning studded tires. One that would ban the use of studded tires in the state; the other would impose a fee on the sale of each tire sold.

Over the past twenty years, the Legislature has debated the issue of studded tires but has never gotten to a point where it could muster enough support to ban their use. The Legislature did recently enact a “stud light” bill that phased in the use of lighter weight studs, making Washington law consistent with that of Idaho and Oregon. The Blue Ribbon Commission on Transportation recommended that the Legislature either ban the use of studs or establish a surcharge for studded tire use. Legislation was introduced but did not pass during the 2001 and 2003 sessions to establish a fee on the sale of each studded tire sold.

In response to the Commission’s request a bill to ban the use of studs and a bill to impose a fee on the sale of studded tires have been developed for the Commission’s consideration.